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**FILED**  
HARRISBURG, PA  
OCT 1 2002  
MARY E. DANFORD, CLERK  
Per  Deputy Clerk

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**TERRY BOYD WILKINSON and  
SHARON WILKINSON, husband  
and wife,**

Plaintiffs

V.

NORFOLK SOUTHERN RAILWAY  
COMPANY and CONSOLIDATED  
RAIL CORPORATION,

## Defendants

V.

GPS TERMINAL SERVICES, INC.,  
Third Party Defendant

## CIVIL ACTION

## JURY TRIAL DEMANDED

JUDGE SYLVIA H. RAMBO

NO. 01-CV-1146

**MOTION OF NORFOLK SOUTHERN RAILWAY  
COMPANY AND CONSOLIDATED RAIL CORPORATION,  
DEFENDANTS, PURSUANT TO THE COURT’S ORDER AND  
OPINION OF SEPTEMBER 23, 2002**

AND NOW comes NORFOLK SOUTHERN RAILWAY COMPANY and CONSOLIDATED RAIL CORPORATION (“Railroad Defendants”), Defendants, by their attorneys, NAUMAN, SMITH, SHISSLER & HALL, LLP, and moves this Court for the entry of an Order entering final judgment in this proceeding pursuant to the Court’s Opinion and Order of September 23, 2002, as follows:

1. This proceeding was commenced by Plaintiffs against Railroad Defendants asserting claims under Federal Employers’ Liability Act (“FELA”) and Pennsylvania common law negligence.

2. The Railroad Defendants joined GPS Terminal Services, Inc. (“GPS”) as a third party defendant under applicable federal rules based upon a contractual indemnity provision between the Railroad Defendants and GPS asserting rights under that indemnity provision if the Railroad Defendants were found liable to Plaintiffs for the injuries claimed.

3. On July 15, 2002, Railroad Defendants filed a Motion for Summary Judgment as to both causes of action against them asserted by Plaintiffs.

4. On September 23, 2002, the District Court granted Railroad Defendants’ Motion as to both causes of action and entered an appropriate Order.

5. Due to the Court's determination that Railroad Defendants have no legal liability to Plaintiffs under either cause of action, the indemnity claim of Railroad Defendants against GPS is rendered moot.

WHEREFORE, Norfolk Southern Railway Company and Consolidated Rail Corporation, Defendants, move this Honorable Court for the entry of an Order entering final judgment in their favor and against Terry Boyd Wilkinson and Sharon Wilkinson, Plaintiffs, and further ordering that, in light of the Court's Opinion and Order of September 23, 2002, the third party claim of Norfolk Southern Railway Company and Consolidated Rail Corporation, Defendants against GPS Terminal Services, Inc., Third Party Defendants is rendered moot.

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: \_\_\_\_\_

  
**Craig J. Staudenmaier, Esquire**  
**Supreme Court ID# 34996**

200 North Third Street, P. O. Box 840  
Harrisburg, PA 17108-0840  
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Counsel for Norfolk Southern Railway  
Company and Consolidated Rail  
Corporation, Defendants

Date: October 1, 2002

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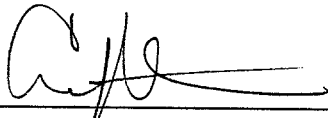
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**CERTIFICATE PURSUANT TO MIDDLE DISTRICT  
LOCAL RULE 7.1**

I, CRAIG J. STAUDENMAIER, ESQUIRE, attorney for NORFOLK SOUTHERN RAILWAY COMPANY and CONSOLIDATED RAIL CORPORATION, hereby certify that I have contacted the attorney for Third Party Defendant, Jeffrey B. Rettig, Esquire, of Hartman, Osborne & Rettig, P.C. who concurs in the Motion of Norfolk Southern Railway Company and Consolidated Rail Corporation, Defendants, Pursuant to the Court's Order and Opinion of September 23, 2002.

NAUMAN, SMITH, SHISSLER & HALL, LLP

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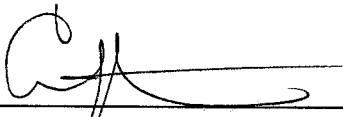
Date: October 1, 2002



depositing a copy of the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania, addressed to the following:

Jeffrey B. Rettig, Esquire  
Hartman, Osborne & Rettig, P.C.  
126-128 Walnut Street  
Harrisburg, PA 17101

NAUMAN, SMITH, SHISSLER & HALL, LLP

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